

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ANTHONY PATRICK, No. M38082,

Plaintiff,

vs.

RANDY DAVIS,

Defendant.

Case No. 13-cv-00844-JPG

MEMORANDUM AND ORDER

GILBERT, District Judge:

On August 16, 2013, Plaintiff Anthony Patrick, an inmate in the custody of the Illinois Department of Corrections, housed at Vienna Correctional Center, filed a civil rights complaint pursuant to 42 U.S.C. § 1983 (Doc. 1). By Order dated September 11, 2013, the Court concluded that the complaint, as drafted, failed to state a colorable constitutional claim (Doc. 5).

Plaintiff was directed to file a complaint by October 11, 2013 (Doc. 5). He was forewarned that failure to file a proper complaint by the prescribed deadline would result in the dismissal of this action, that such a dismissal would count as one of his allotted “strikes” under the provisions of 28 U.S.C. § 1915(g), and that Plaintiff would remain obligated to pay the filing fee. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

Plaintiff has not filed a complaint and the deadline for doing so has passed. It appears that Plaintiff has abandoned this action.

IT IS THEREFORE ORDERED that pursuant to Federal Rule of Civil Procedure 41(b), this action is **DISMISSED with prejudice** for failure to comply with a court order and failure to prosecute this action. Furthermore, this action is deemed frivolous for purposes of

Section 1915(g); therefore Plaintiff will be allotted a **STRIKE** under the provisions of 28 U.S.C. § 1915(g). Judgment shall enter accordingly and this case will be closed.

IT IS FURTHER ORDERED that Plaintiff remains obligated to pay the filing fee. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). A separate order will enter regarding the collection of the fee (*see* Doc. 2).

IT IS SO ORDERED.

DATED: November 12, 2013

s/ J. Phil Gilbert
UNITED STATES DISTRICT JUDGE